

RALPH TRUTILLO, D-09285
P.O. BOX 7500, D4/223
PELICAN BAY STATE PRISON
CRESCENT CITY, CA 95532
PRO SE

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CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PABLO PIÑA
RALPH TRUTILLO
EDDIE GARCIA ET AL,
PLAINTIFFS

VS.

TILTON... (DIRECTOR), (SECRETARY)
ROBERT HAREL (WARDEN) ET AL,
DEFENDANTS

CASE NO. C-07-4989 SX
1.) REQUESTING FULL CO-
PLAINTIFF STATUS WITH THIS
SPECIFIC CASE BEFORE THIS
COURT. 2.) PLAINTIFFS

MOTION FOR THE APPOINTMENT
OF COUNSEL

TO THE HONORABLE JUDGE, PRESIDING IN THE
ABOVE ENTITLED COURT.

I RALPH TRUTILLO, IS A CO-PLAINTIFF IN THIS CITED
CASE BEFORE THE COURT. CO-PLAINTIFF MOVES THIS COURT
FOR AN ORDER, STATING THAT CO-PLAINTIFF R. TRUTILLO IS
A NAMED PLAINTIFF WITH ALL LEGAL AREAS OF THIS ACTION.

I

PLAINTIFF SEEKS FOR THIS COURT TO PROVIDE AN
ORDER WHICH WILL STATE IN PART,

1. CO-PLAINTIFF R. TRUTILLO BE ALLOWED TO OBTAIN A
COPY OF EACH COURT ORDER, EACH MOTION PREPARED
BY CO-PLAINTIFFS, EACH MOTION PREPARED BY THE
DEFENDANTS / LEGAL COUNSEL (CA ATTORNEY GENERAL'S
OFFICE) AND SERVED UPON CO-PLAINTIFF P. PIÑA,
WHICH THE CLERK OF THIS COURT SHALL PROVIDE TO
CO-PLAINTIFF R. TRUTILLO VIA U.S. POSTAL SERVICE

THIS ACTION BEFORE THE COURT CENTERS AROUND CO-PLAINTIFFS R. TRUJILLO, E. GARCIA AND NAMED PLAINTIFF P. PINA, AND CO-PLAINTIFFS HAVE BEEN DENIED LEGAL ASSISTANCE BY PELICAN BAY STATE PRISON (PBSP) OFFICIALS R.L. JOHNSON D-FACILITY CAPTAIN AND M.D. CASTELLAN ASSOCIATE WARDEN (SHU).
SEE EXHIBIT A, PAGES 1 THRU 6

IT IS CLEAR THAT WITH AN ESTABLISHED LEGAL ASSISTANCE PROGRAM IN PLACE FOR (SHU) PRISONERS, PRISON OFFICIALS AND LAW LIBRARY CORRECTIONAL OFFICERS (C/L & SOTS), ARE DELIBERATELY OBSTRUCTING CO-PLAINTIFFS FULL AND IMPARTIAL ACCESS TO THIS COURT. (PBSP) OFFICIALS HAVE NOT ATTEMPTED TO REMEDY THE REQUEST OF CO-PLAINTIFFS TO BE ALLOWED TO CONTINUE TO GATHER RELEVANT AND PERTINENT MATERIAL EVIDENCE FOR CO-PLAINTIFFS. PRISON OFFICIALS ARE HINDERING CO-PLAINTIFFS ACCESS TO THIS COURT BY NOT ALLOWING THEM TO PROVIDE AND PRESENT THE RELEVANT INFORMATION FROM EACH CO-PLAINTIFF.

II

APPOINTMENT OF COUNSEL FOR THIS ENTITLED ACTION

1.) THE CO-PLAINTIFFS IN THIS ACTION SHALL REQUEST THIS COURT TO APPOINT COUNSEL DUE TO THE COMPLEXITY OF THE ISSUES FOR CO-PLAINTIFFS CONTAINED IN THIS CASE, AND BECAUSE PLAINTIFFS ARE LAYMAN-AT-LAW.

PLAINTIFFS HAVE BEEN HELD IN (SHU) FOR DECADES ILLEGALLY, BASED ON ALLEGED PRISON GANG STATUS; (SEE 1983 CIVIL SUIT BEFORE THIS COURT) AND THAT MANY OF THE ISSUES PRESENTED CONCERN; KNOWINGLY FABRICATED STATE DOCUMENTED EVIDENCE; THE CONFIDENTIAL LABELED EVIDENCE WHICH PLAINTIFFS ARE NOT ALLOWED TO REVIEW IN ORDER TO CHALLENGE/REFUTE ERRONEOUS GANG RELATED INFORMATION; AND THE FABRICATED EVIDENCE/INFORMATION DEFENDANTS KNOWINGLY PLACED IN PLAINTIFFS CENTRAL FILES (C-FILE).

ONLY THROUGH THE PROFESSIONAL ASSISTANCE OF A ATTORNEY WILL PLAINTIFFS BE GUARANTEED A FEDERAL AND STATE DUE PROCESS, PROCEDURAL DUE PROCESS AND EQUAL PROTECTION. FURTHERMORE, THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) AND PELICAN BAY STATE PRISON (PBBP) OFFICIALS ARE NOT GOING TO ALLOW PLAINTIFFS TO REVIEW CONFIDENTIAL MATERIALS/DOCUMENTS ETC., IT IS WITHIN THE POWER OF THIS COURT TO APPOINT LEGAL COUNSEL FOR JUSTICE TO PREVAIL, FORTHWITH.

2.) THE LEGAL AUTHORITY IN SUPPORT OF PLAINTIFFS MOTION FOR APPOINTMENT OF COUNSEL AND COMPENSATION IS ARTICLE I, No. 15 OF THE CALIFORNIA CONSTITUTION; THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION; 23 U.S.C. 1915; 18 U.S.C. 3006 A(c), AS INTERPRETED IN; MCCLAIR V. MANSON, 343 F. SUPP. 382 [D. CONN. 1972]; PAYNE V. SUPERIOR COURT (1975) 17 CAL. 3d 908; 23 U.S.C. 1915(c)(1); PARHAM V. JOHNSON, 126 F.3d 454, 461 (3d CIR. 1997); SALAS V. CORTES (1978) 24 CAL. 3d 22; PRICE V. JOHNSON, 161 F.2d 705; YARBROUGH V. SUPERIOR COURT, (1983) 150 CAL. APP. 3d 388; MONTGOMERY V. PINCHAK, 294 F.3d 492, 499 (3d CIR. 2002); AND CALIFORNIA PENAL CODE 1191.1, WHICH EXPRESSLY GRANTS A RIGHT TO COUNSEL AND EQUAL PROTECTION TO INDIGENT IMPRISONED PRISONERS UPON REQUEST. AS A MATTER OF DUE PROCESS AND EQUAL PROTECTION UNDER BOTH THE FEDERAL AND CALIFORNIA CONSTITUTION, A PRISONER, AS A PLAINTIFF IN A BONA FIDE LEGAL ACTION THREATENING HIS INTEREST, AND IS BEING EXPOSED TO JUDICIALLY SANCTIONED DEPRIVATIONS, IS ENTITLED FULL ACCESS TO THE COURTS IN ORDER TO HAVE A MEANINGFUL OPPORTUNITY TO BE HEARD AND TO HAVE ASSISTANCE OF COMPETENT COUNSEL. YARBROUGH V. SUPERIOR COURT, SUPRA CITING PAYNE V. SUPERIOR COURT, SUPRA.

" "

" "

" "

" "

I DECLARE UNDER PENALTY OF PERJURY THAT
THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF
MY KNOWLEDGE

DATE: 1/15/08


CO- PLAINTIFF

EXHIBIT A

STATE OF CALIFORNIA

PELICAN BAY STATE PRISON

INMATE/PAROLEE

APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

UNIT 1

Log No.

D07-02468

Category

10/13

JVA ASSISTING
W/LEGAL WORK
DEPARTMENT OF CORRECTIONS

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
TRUJILLO	D-09285		04/223

A. Describe Problem: MR PINA AND MYSELF RESPECTIVELY FILED A CIVIL SUIT IN THE NORTHERN DIST. COURT NO. C-07-4989. OUR FIRST REQUEST FOR LEGAL ASSIST. WAS GRANTED. BUT WHEN WE ATTEMPTED TO RENEW OR REQUEST FOR ASSIST, IT WAS DENIED. WE ARE BOTH CHALLENGING OUR BOND STATUS AND WANT OUR TERMS. WE ARE BOTH NAMED PLAINTIFFS IN COMPLAINT AND ARE BOTH RESPONSIBLE FOR PREPARING & SUBMITTING OUR CASE. SINCE NEITHER OF US HAVE VIOLATED ANY RULES GOVERNING LEGAL ASSISTANCE PROGRAM, THE DENIAL CAN ONLY BE VIEWED AS AN ATTEMPT TO OBSTRUCT OUR ACCESS TO THE COURTS. TITLE 15 §160 (a).

If you need more space, attach one additional sheet.

B. Action Requested: THAT WE BE ALLOWED TO ASSIST EACH OTHER IN THE PREPARATION AND FILING OF CIVIL COMPLAINT WHENEVER ASSISTANCE IS REQUESTED DURING THE COURSE OF THIS LEGAL ACTION.

Inmate/Parolee Signature: TrujilloDate Submitted: 10/16/07C. INFORMAL LEVEL (Date Received: 10-17-07)Staff Response: DENIED - SEE ATTACHED OP 822 (2) (D)Staff Signature: [Signature]Date Returned to Inmate: 10-23-07

FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

RATHER THAN SEE A DENIAL OF THIS APPEAL, DISSATISFIED WITH INFORMAL LEVEL. AS CH. DOES NOT COMPREHEND COMPLAINT, AS EM ONLY SEEKING APPROVED LEGAL ASSISTANCE WITH PRISONER PINA WITHOUT HINDERANCE AND/OR REPRISALS DIRECTED AT OTHER OF US. WE ARE ONLY SEEKING LEGAL ASSISTANCE TO FILE A COMPLAINT.

Signature: TrujilloDate Submitted: 11/6/07

Property/Funds appeals must be accompanied by a completed
Form of Control form BC-1E, Inmate Claim

CDC Appeal Number:

10 8 2007

ST
AW-SHM

①

First Level ☐ Granted ☐ P. Granted ☒ Denied ☐ Other _____E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 11-08-07 Due Date: 12-26-07

Interviewed by: _____

Staff Signature: _____

Title: _____

Date Completed: 12/5/07

Division Head Approved: _____

Returned _____

Signature: _____

Title: AWDate to Inmate: 12/14/07

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

SEE ATTACHED RESPONSE (PP. 6)

Signature: _____

Date Submitted: 12/12/07Second Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other _____

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: _____ Due Date: _____

☐ See Attached Letter

Signature: _____ Date Completed: _____

Warden/Superintendent Signature: _____ Date Returned to Inmate: _____

H. If dissatisfied, add date or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other _____☐ See Attached Letter

SECURITY HOUSING UNIT
 PELICAN BAY STATE PRISON
 SECURITY HOUSING UNIT
 REQUEST FOR LEGAL ASSISTANCE

****PASSING MATERIAL MUST BE SUBMITTED TO LAW LIBRARY FOR APPROVAL****

In compliance with O.P. 822, F (1), an inmate housed in SHU may have another inmate housed in the same housing unit, assist him in preparation of legal documents. An inmate requesting assistance of another inmate must complete this form and return it to the Law Library. Request for legal assistance will be approved or denied as per O.P. 822. By signing this form each inmate agrees to abide by all rules governing Inmate Legal Assistance. Violation of the rules may be cause for disciplinary action in accordance with Departmental Regulations. 7/03

X New request _____ Request For Extension

INMATE REQUESTOR: (Please print clearly)

Name PIÑA PABLO CDC No: D-28079 Housing D-4 102
 I request and authorize inmate (Name) Trujillo RALPH CDC No: D-09285
 Housing: D-4 223 to assist me in my preparation of legal documents.

Pablo Piña
 (Inmate Requestor's Signature)

Date: 10/14/07

VERIFIABLE REFERENCE INFORMATION:

Case No: C-07-4989

Type of case (Check one) _____ Habeas Corpus (contesting sentence) X Civil Rights (conditions of confinement) Other: INACTIVE GANG STATUS

Name and location of court: N-DIST-COURT San Francisco, Calif

Legal Deadline: _____ Type Of Deadline: Need to discuss case.

INMATE ASSISTANT: (Please print clearly)

Name: Trujillo Ralph CDC No: D-09285 Housing D-4 223
 I agree to assist the above named requesting inmate in preparation of his legal documents.

I understand that I am responsible for all legal documents while in my possession.

Trujillo
 (Inmate Requestor's Signature)

Date: 10/15/07

DO NOT WRITE BELOW THIS LINE-----STAFF USE ONLY-----

ALL CORRESPONDANCE MUST BE PROCESSED THROUGH THE LAW LIBRARY. ANY DEVIATIONS OF THIS POLICY MAY RESULT IN YOUR RESTRICTION OF THE LEGAL ASSISTANCE PROGRAM.

APPROVED: _____ DENIED: X Officer's signature: [Signature]

Comments:

Denial - same case - expansion on verifiable guidelines per O.P. 822.

EFFECTIVE DATES: [Signature]

to [Signature]

PELICAN BAY STATE PRISON
Operational Procedure No. 822
Library and Law Library Services

Page 10
July 2005

2. Security Housing and Administrative Segregation Units

- a. An inmate requesting to establish an arrangement for legal assistance must be acting *in propria person* and may only choose an assistant from the same housing unit.
- b. The inmate may request a SHU *Request for Legal Assistance* form (Attachment 8) from the SHU Law Library. The form must be submitted to the Law Library staff upon completion of the inmate's portion of the form. Law Library staff will then submit the form to the requested inmate assistant for completion of his section. The form is then returned to the law library for processing.
- c. The Law Library Sergeant or Program Lieutenant will either approve, or disapprove the inmate's request and may terminate a legal assistance arrangement at any time they determine a violation of regulations or established procedures has occurred. Any such termination will be documented.
- d. If the request is approved, the inmates may assist each other for a period of two weeks. They shall not be permitted to provide or request assistance to or from any other inmate during this time. If they are working on a verified court deadline, they may request an extension.
- e. Legal assistance between two inmates will be provided by permitting them to submit a total of six handwritten pages of questions and answers dealing only with the case for which the assistance has been approved (research materials, inquiries as to the type of document needed and proper completion of same, case cites, etc.). Questions and answers may be submitted once a week. Failure to comply with the above procedures and regulations will be documented and may result in restriction from the Legal Assistance Program.
- f. The correspondence will be reviewed by Law Library staff for the purpose of verifying its legality. Non-legal, prohibited communications include, but are not limited to, the following:
 - (1) Requests for the name, location of, or any reference to any other person.
 - (2) Books, magazines, transcripts, periodicals, etc.
 - (3) Any type of personal communication.

FIRST LEVEL APPEAL RESPONSE

RE: PELICAN BAY STATE PRISON (PBSP)
Appeal Log Number PBSP-D-07-02468
First Level Reviewer's Response

Inmate: TRUJILLO, D-09285

APPEAL DECISION: **DENIED**

APPEAL ISSUE:

In your appeal you speak to the PBSP legal passing procedure and assert that by refusing to allow you to correspond with inmate PENA, PBSP is attempting to obstruct your access to the courts. As a remedy, you request that you be allowed to continue utilizing the legal passing service with the help of Inmate PENA.

APPEAL RESPONSE:

On November 11, 2007, Correctional Sergeant D. W. Gallian was assigned to review your appeal by the First Level Reviewer. You were interviewed on November 28, 2007, regarding this appeal. During the course of this interview you stated that the information was true and correct and did not provide any additional information regarding this matter.


Operational Procedure (OP) 822 outlines the procedures governing the Security Housing Unit Law Library and all of the services provided by the Library. OP 822, Section H (2) paragraph (d), speaks specifically to the legal passing program and establishes that an inmate must have a legal deadline in order to request an extension of passing privileges. Based on the information that is contained in this appeal and by your own admission you do not have a legal deadline and are in fact only working on a complaint. The guidelines in OP 822 have been approved by the Warden and do not allow for passing between inmates that are working on complaints unless there is an established legal deadline.

DETERMINATION OF ISSUE:

Based on the above information, your appeal is **DENIED** in its entirety at the First Level of Review.


R. L. JOHNSON
Facility Captain
Facility D

12/5/07
Date


M. D. CASTELLAW
Associate Warden
Security Housing Unit

Date 12-5-07

REBUTTAL TO E. REVIEWER'S ACTION:
IN RE APPEAL LOG # PRSP-D-07-02468

F. PLAINTIFF IS DISSATISFIED WITH FIRST LEVEL APPEAL RESPONSE. ONE OF THE MAIN FUNCTIONAL PURPOSE OF THE (PRSP) REQUEST FOR LEGAL ASSISTANCE, IS SO THAT PRISONERS WITHIN THE SAME HOUSING UNIT CAN ASSIST ONE ANOTHER, AND WHEN PRSP - PRISON OFFICIALS VIOLATE THAT U.S. CONST. RIGHT, AS WELL AS ROMANOS V. SMITH, 430 U.S. 827, PLAINTIFFS CASE IS BEING (ARBITRARILY BIASED) BY DENYING CO-PLAINTIFFS (I.E. MYSELF AND PRISONER PINA) FOR DISCONTINUING CO-PLAINTIFF LEGAL ASSISTANCE WHILE THIS ACTIVE CASE IS BEFORE THE U.S. NORTHERN DISTRICT COURT. THEREFORE, CO-PLAINTIFFS SHOULD BE ALLOWED LEGAL ASSISTANCE CORRESPONDENCE VIA SHAW CANN LIBRARY, IN ORDER TO GATHER ALL NECESSARY (MATERIAL EVIDENCE AND SUPPORTING DOCUMENTS) FOR THIS CIVIL LAW SUIT, FORTHWITH.

DATED 12/17/07

TRUJILLO, D-09285

IN RE. APPEAL LOG # PRSP-D-07-02468

PROOF OF SERVICE BY MAIL

(C.C.P. Section 101a #2105.5, 20 U.S.C. 1746)

I, RALPH TRUTULLO, am a resident of Pelican Bay State Prison, in the County of Del Norte, State of California. I am over eighteen (18) years of age and am a party to the below named action.

My Address is: P.O. Box 7500, Crescent City, CA 95531.

On the 15 day of JAN., in the year of 2008, I served the following documents: (set forth the exact title of documents served)

1) REQUESTING FULL CO-PLAINTIFF STATUS WITH THIS
SPECIFIC CASE BEFORE THIS COURT. 2) PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL WITH SUPPORTING DOCUMENTS

on the party(s) listed below by placing a true copy(s) of said document, enclosed in a sealed envelope(s) with postage thereon fully paid, in the United States mail, in a deposit box so provided at Pelican Bay State Prison, Crescent City, CA 95531 and addressed as follows:

U.S. DISTRICT COURT FOR
THE NORTHERN DISTRICT
U.S. COURTHOUSE
450 GOLDEN GATE AVE.
SAN FRANCISCO, CA 94102-3483

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 15 day of JAN., 2008.

Signed: _____

Ralph Trutullo
(Declarant Signature)